IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1031 OF 2000

The Commissioner of
Income Tax,Mumbai ... Appellant
V/s
M/s K.E.C.International Ltd. ... Respondent

Dr.P.Daniel with Mr.G.Hariharan for appellant
Mr. Parey Pardiwalla with Mr. Suryakant B.Chaudhari
i/b Shaunak Satpute & Co. for respondent

CORAM: S. RADHAKRISHNAN
AND
J.H.BHATIA, JJ.
DATE : 5TH JULY,2005.

P.C.

1. Heard the learned counsel for the appellant and the respondent

2. The appellant is seeking leave for the following substantial question of law.

> "Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in confirming the order of C.I.T.(A) and directing that the adjustment of Rs.4,38,03,000/- being income accrued on Bank deposit in Iran be deleted ?"

3 We have perused paragraph-6 of the order dated 14.1.2000. It reads as under:

> The learned departmental representative relied on the order of the A.O.The learned counsel for the assessee contended that the returns for assessment year 1987-88 and 1988-89 were accepted by the department. This itself shows that the department has accepted the change in method of accounting adopted by the assesee. Further, the return, after processing under section 143(1)(a) was selected for scrutiny, and on assessment under section 143(3), no

such addition was made. The learned counsel for the assessee further submitted that the issue of highly debatable in nature and, therefore,could not have been subject matter of adjustment under section 143(1)(a). Besides, the change in method of accounting has been effected in assessment year. What is supposed to be adjusted under section 143(1)(a) by way of prima facie adjustment is only disallowance. The scope of adjustment cannot extent to bringing in any items of income in the garb of adjustment. Reliance was placed on 200 ITR 739 (Bank of America) Vs.CIT)(Bom.)203 ITR 737 (Adamas Gem Industries Ltd. Vs.ACIT)(Bom.) and 63 ITD 418 (Premier Automobiles Ltd. Vs. ACIT)."

4. Under the aforesaid facts and circumstances, there is no question of adding a sum of Rs.4,38,03,000/- as income under section 143(1)(a) of the Income Tax Act,1961 as it stood then. There is no substantial question of law involved in this appeal. Appeal stands dismissed.

S.RADHAKRISHNAN,J.

J.H.BHATIA,J.